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## REMARKS

Claims 1-12 and 43-49 remain pending in the instant application. All claims presently stand rejected. Reconsideration of the pending claims are respectfully requested.

*Claim Rejections – 35 U.S.C. § 102*

Claims 1-12 and 43-49 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Ellis et al. (US 6,898,762). Applicants respectfully traverse the rejections.

A claim is anticipated only if each and every element of the claim is found in a single reference. M.P.E.P. § 2131 (citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628 (Fed. Cir. 1987)). “The identical invention must be shown in as complete detail as is contained in the claim.” M.P.E.P. § 2131 (citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226 (Fed. Cir. 1989)).

Independent claim 1 recites, in pertinent part,

refining a list of available content in response to the feedback to create the future broadcast schedule, **wherein refining the list of available content prioritizes an order in which at least a portion of the available content described by the content descriptors will be broadcast; and**  
**broadcasting the available content** listed in the refined list of available content, according to the future broadcast schedule **as prioritized by the refining, to said one or more clients.**

Applicants respectfully submit that Ellis fails to disclose refining a list of available content in a manner that **prioritizes an order in which the available content will be broadcast** and then **broadcasting the available content as prioritized by the refining.**

First, Applicants note that the “content descriptors” and the “available content” are two distinct elements—the content descriptors describe the available content. Therefore, with reference to the Examiner’s rejection of claim 1, the Examiner cites the category, channel, etc. data of the television program guide illustrated in FIG. 5 of Ellis as corresponding to the claimed “content descriptors”, while the “available content” is the programming content itself (e.g., the “I Love Lucy” program, “MTV After Hours” program, etc. listed in the program guide on FIG. 6).

Applicants acknowledged that Ellis discloses an interactive television program guide that provides a user with an opportunity to view television program listings (*Ellis*,

col. 10, lines 40-41); collects user preference profiles at a server and uses the profiles to filter program guide data so that only program guide data that is of interest to the user is displayed in the client user guide (*Ellis*, col. 2, lines 23-29). *Ellis* even discloses that the interactive program guide enables a user to define Boolean or natural language expressions for searching and sorting program guide data and automatically recording programs (*Ellis*, col. 2, lines 36-41; col. 12, lines 32-50).

However, *Ellis* does not disclose (1) refining a list of available content in a manner that “prioritizes an order in which ... the available content ... will be broadcast” nor does *Ellis* disclose (2) “broadcasting the available content ... as prioritized by the refining...” Rather, *Ellis* simply discloses that the program guide data (i.e., the content descriptors) is filtered based on user preference profiles collected from clients. **Filtering what is displayed in a user guide fails to disclose prioritizing the order in which the available programs described by the program guide are broadcast to the client.**

Claim 1 recites the act of “broadcasting” as prioritized by the refining. *Ellis* does not disclose that the broadcast of the available programs is ever refined or even changed. It simply discloses that the program guide is filtered, while leaving the broadcast of the available programs unchanged and unrefined. The clients still received all the available programs in the original order, even though the program guide has removed mention of some of the available programs. The program guide disclosed in *Ellis* simply helps the user find available programs that are of likely interest to the client user by filtering program guide data associated with available programs that it believes the user would not be interested in watching (even though these available programs are still delivered to the client in the original order on the originally designated channels).

*Ellis* only discloses modifying/filtering the program guide based on user feedback. However, the program guide merely describes the content which will be broadcast, it is not the available content itself. *Ellis* simply makes no mention of prioritizing the order in which available content described by the program listing screen 130 (i.e., the disclosed program guide) **will be broadcast**. Filtering a program guide so that a user only sees shows which he or she would be interested in, while broadcasting all programs (including the programs filtered out of the user guide) fails to disclose “broadcasting the available content ... as prioritized by the refining...”

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Consequently, Ellis fails to disclose each and every element of claim 1, as required under M.P.E.P. § 2131. Independent claims 4, 43, and 47 include similar novel elements as independent claim 1. Accordingly, Applicants request that the instant §102 rejections of claims 1, 4, 43, and 47 be withdrawn.

The dependent claims are novel over the prior art of record for at least the same reasons as discussed above in connection with their respective independent claims, in addition to adding further limitations of their own. Accordingly, Applicants respectfully request that the instant § 102 rejections for the dependent claims be withdrawn.

### CONCLUSION

In view of the foregoing remarks, Applicants believe the applicable rejections have been overcome and all claims remaining in the application are presently in condition for allowance. Accordingly, favorable consideration and a Notice of Allowance are earnestly solicited. The Examiner is invited to telephone the undersigned representative at (206) 292-8600 if the Examiner believes that an interview might be useful for any reason.

### CHARGE DEPOSIT ACCOUNT

It is not believed that extensions of time are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a). Any fees required therefore are hereby authorized to be charged to Deposit Account No. 02-2666. Please credit any overpayment to the same deposit account.

Respectfully submitted,

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